

Remarks

Construction of the term “patient”

Independent claims 9, 22, and 62 recite the term “patient.” The Final Office Action on page 3 states that “the term patient has not been defined in the instant specification, but has been defined according to CancerWEB’s On-line Medical Dictionary (see attached).” The attached definition defines “patient” as “a person.”

While dependent claims 45, 47, and 66 recite that the patient is a human, the term “patient” in claims 9, 22, and 62 is not limited to human patients. *See, e.g.*, page 12, lines 20-21 of the specification, which teach “determining the presence or absence of cancer or a precancerous condition in an animal.”

Rejection Under 35 U.S.C. § 112 ¶ 2

The Final Office Action contends that the term “obtained from” as used in claims 1, 12, 33, 52, and 59 is unclear because “claiming that the biological subject is **obtained from** a region of the mammal . . . logically[.] does not make sense.” Final Office Action at page 11, last paragraph.

The Final Office Action apparently assumes the term “biological subject” refers to the recited mammal; this is not the case. “Biological subject” is defined on page 22, lines 11-19 of the specification. It “refers to a target biological object obtained, reached or collected *in vivo* or *in situ*, including a biological sample” To advance prosecution, however, claims 1, 22, 49-52, and 62 are amended to replace the term “biological subject” with the term “biological sample,” as suggested in the Final Office Action.¹ Please withdraw the rejection.

¹ Claims 12 and 33 have been canceled.

Rejections Under 35 U.S.C. § 112 ¶ 1

The Final Office Action rejects the following groups of claims under 35 U.S.C. § 112 ¶ 1 for lack of enablement:

- claims 1-3, 9-11, 39, 40, 44, 45, 49-70, and 77-82;
- claims 12, 14, 41, 46, 71, and 72;
- claims 22-24, 33-35, 42, 43, 47, 48, and 73-76

To advance prosecution, claims 2, 10, 12, 14, 23, 33-35, 41, 43, 46, 48, 54-57, 71, 72, 75, and 76 have been canceled, and independent claims 1, 9, 22, 52, and 59 have been amended to recite subject matter which the Final Office Action acknowledges is enabled.

Please withdraw the rejections.

Respectfully submitted,
BANNER & WITCOFF, LTD.

Date: April 10, 2007

By: /Lisa M. Hemmendinger/
Lisa M. Hemmendinger
Registration No. 42,653

Customer No. 22907